SERVICES 2000:

Canadian Services Industries and the GATS 2000 Negotiations

CANADIAN ARCHITECTURAL SERVICES

A Consultation Paper
in preparation for the World Trade Organization (WTO)
General Agreement on Trade in Services (GATS) Negotiations

Canada

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EXECUTIVE SUMMARY

Canada will soon be involved in comprehensive multilateral negotiations regarding trade in services. This discussion paper attempts to increase industry awareness of the main issues, challenges, and most importantly, opportunities that are relevant to the architectural services industry. It also seeks to gather input regarding the kind of approach Canada should take and the types of goals the architectural services industry would like to see achieved during these service negotiations. Comments provided in response to this document will assist the Canadian government in establishing its negotiation objectives.

International trade in services between the 134 Members of the World Trade Organization (WTO) is regulated by the General Agreement on Trade in Services (GATS). This Agreement was negotiated during the Uruguay Round of multilateral trade negotiations and covers all service sectors (including professional services) and all forms of trade in services. While the GATS is a government-to-government agreement, it is of direct relevance to firms. The GATS establishes a basic set of rules for world trade in services, a clear set of obligations for each Member country, and a legal structure for ensuring that those obligations are observed. This helps identify market openness and attempts to provide equitable market access.

Within the global economy, the significance of trade in services is hard to ignore. International trade in services currently amounts to well over one trillion US dollars, a significant portion of total world trade. The service industries also account for a significant portion of domestic economic growth and job creation. In light of the increasing tradeability of services and the growing domestic importance of service sectors, it is important to continue liberalizing and to establish effective rules for trade in services. Canada hopes to secure better access to foreign service markets through the GATS negotiations. The architectural services sector will be particularly important during these negotiations.

Architects are skilled professionals who plan and develop designs for the construction and renovation of residential, commercial, institutional and industrial buildings. Their services range from the design of buildings to furniture and may include urban design, project management and town planning. The Canadian architectural services industry comprises approximately 3,500 private firms and employs 11,500 workers, plus approximately 7,000 registered architects. Most firms in Canada are small, typically employing less than ten people, but there are also a few larger players. Total revenues for the industry measured in current dollars for 1995 were $898.9 million. Of this amount, only $17 million was derived from exports of architectural services with the majority of trade being undertaken by larger architectural firms.

This discussion paper attempts to identify the barriers that the Canadian architectural sector faces when trying to export its services. However, to truly understand the situation of the Canadian industry input from the private sector is necessary. By examining individual experiences in the international market,

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we hope to develop a better understanding of the real barriers that have limited the exportation of Canadian architectural services.

The input and participation of the architectural sector is essential to establishing appropriate negotiating objectives and determining Canada's negotiation agenda. Towards this end, we are seeking input from those involved, or interested, in the exportation of Canadian architectural services. The following questions are offered as guidelines for formulating comments.

- What type of services do you currently export?
- What are the destinations of these service exports?
- Currently, how important are your international exports and activities:
  - very important;
  - moderately important; or
  - not important at all?
- In order, what are the most important methods by which you reach your foreign clients:
  - establishing a legal entity in the foreign country (i.e. a subsidiary or branch);
  - temporarily sending personnel to the client's foreign location;
  - by mail;
  - over the phone;
  - by fax;
  - transmitting your services electronically over the Internet; or
  - having the foreign client visit you in Canada?
- In the future, which countries do you anticipate will be important export destinations for your services?
- What type of services do you anticipate exporting in the future?
- How important do you anticipate international trade will be in the future:
  - very important;
  - moderately important; or
  - not important at all?
- Do you anticipate that your method of delivering services internationally will change?

- In the future, what do you anticipate will be the most important methods by which you reach your foreign clients:
  - establishing a legal entity in the foreign country (i.e. a subsidiary or branch);
  - temporarily sending personnel to the client's foreign location;
  - delivering the services by mail, over the phone, or by fax;
  - transmitting your services electronically over the Internet; or
  - having the foreign client visit you in Canada?

- If you have limited or curtailed your international activities, was it as a result of:
  - barriers to foreign market access;
  - lack of government procurement opportunities;
  - lack of commercial competitiveness; or
  - other barriers?

- In each of your foreign markets (current or future), how much do local regulations affect your firm's ability to provide services:
  - a lot;
  - moderately; or
  - not at all?

- What specific measures have impeded your firm's business, or have affected your customers' ability to do business with your firm? (If possible, please cite the law or policy that impedes the conduct of business.)

- For each impediment to doing business, how important is it for your firm that the measure be removed:
  - very important;
  - moderately important; or
  - not important at all?

- Are there governmental measures, in Canada or in other countries, that are hindering Canadian architectural firms from participating in multi-disciplinary professional teams?

- Do you think that partnering with foreign firms is an effective way to deliver services? Can you establish or form associations easily?

- What would you consider the priority concerns with respect to the liberalization of trade in architectural services? (Rank the following from most to least important.)
  - "Buy-local" preferences

- Investment limits or restrictions
- Restrictions on the form of commercial establishments (i.e. partnership, joint venture, etc.)
- Immigration/temporary entry restrictions
- Limitations on the number of service providers in the market (quotas, exclusive rights, etc.)
- Non-recognition of professional credentials
- Lack of transparency in local regimes for practising/licensing
- Restrictions on access to government procurement projects
- Subsidies and tax incentives
- Licensing requirements
- Qualification requirements
- Restriction on use of company names
- Language requirements
- Residency/citizenship requirements
- Restrictions on fee-setting
- Unfair bidding practices
- Currency controls
- Others _____

- Negotiation of a multilateral agreement on services trade may well involve an exchange of concessions in which each country would agree to further liberalization of its domestic market. Are there any Canadian measures affecting your sector that are essential to your continued profitability and that should not be liberalized?

- Are there certain areas where internationally liberalized market access in Canada will have a significant impact on Canadian firms? What will be this impact and how large will it be?

- Do you feel that Canadian residency and partnership requirements are still necessary in architectural services?

- Do you consider that barriers to trade in architectural services warrant significant attention in the GATS negotiations? Why? Should Canada devote significant resources to this effort?

If you wish to make your views known to the government, please forward your comments to the following address:

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I. INTRODUCTION

One of the key accomplishments of the last round (1986-94) of multilateral trade negotiations was the negotiation of the General Agreement on Trade in Services (GATS). This Agreement provides improved rules for governing international trade in services. While much was accomplished during this first round of negotiations on trade in services, there remains room for improvement, for expanding the coverage of commitments, and for eliminating trade restrictions. A new round of negotiations, scheduled to begin no later than January 2000, will seek to expand existing commitments in trade in services.

Promoting trade liberalization continues to be an objective of the Canadian government. Strengthening and expanding the GATS is key to capitalizing on trade opportunities, increasing exports from our service sectors, and creating jobs and growth for all Canadians. Increased access to international trade and investment opportunities for the service industries results not only in job creation in this sector, but also in the creation of opportunities for all businesses.

The GATS is not just a treaty between governments; it is first and foremost an instrument for the benefit of business in general. Specifically, it increases opportunities for service companies wishing to export services or to invest and operate abroad. The Canadian government believes that further liberalization under the GATS will benefit Canadian industry and individuals alike. Active involvement of the private sector is important to ensure that outcomes reflect Canadian interests. By actively providing input, the architectural industry can help ensure that policy reflects its true export and economic interests.

"Active service industries involvement in the negotiations is crucial to target Canadian negotiating objectives towards the priorities of business."

Over the coming months, Canadian government officials will be consulting closely with service providers, provincial governments, and other interested parties to define Canadian objectives for the next round of GATS negotiations. The messages heard during these consultations will shape Canada's negotiation strategy, specifically what we want or need from other countries, what we are willing to concede in order to achieve our objectives, and serve the industry's interests.

This document represents the first step in a consultation process aimed at determining the negotiation position of the Canadian *Architectural Services* sector. Its definition is based on the United Nations Central Product Classification (UN-CPC) and includes all types of architectural services except those classified under urban planning and landscape architectural services. The definition for this sector is specified in the *WTO Services Sectoral Classification List* and is used by the majority of countries that signed the WTO. For a more detailed definition, please refer to Annex A.

A certain overlap exists between these sectors and the construction and related engineering services sector. The focus of this paper is on architectural services as professional services, or services provided by qualified architects, and not on the economic activities of physical construction and related engineering works. The reader is invited to refer to *The Canadian Construction Industry: A Consultation Paper* for an overview of construction activities. This document can be obtained through the International Investment and Services Directorate of Industry Canada, or on the Internet at http://services2000.ic.gc.ca.

It is our hope that this document will provide valuable information while soliciting the views of industry members. The paper contains:

- A brief review of the General Agreement on Trade in Services (GATS);
- An overview of the service industries within a global and domestic context;
- An analysis of the architectural services sector globally and in Canada;
- A discussion of the changing international and domestic regulatory and trade environments;
- An analysis of current GATS commitments related to architectural services; and
- Initial Canadian objectives for GATS 2000.

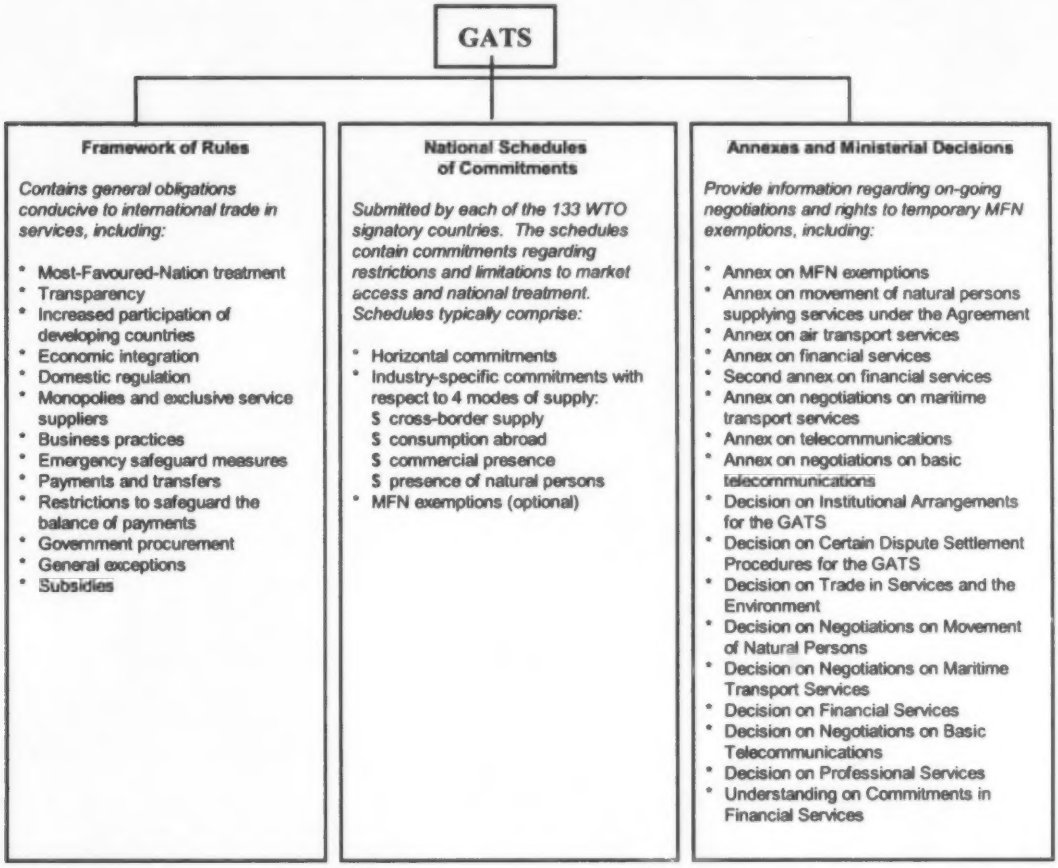
II. REVIEW OF THE GENERAL AGREEMENT ON TRADE IN SERVICES (GATS)

What is the GATS?

The General Agreement on Trade in Services (GATS), negotiated during the Uruguay Round of multilateral negotiations, is a multilateral, comprehensive framework of rules governing trade in services. It applies to all service sectors and all forms of trade in services, including investment. It comprises three parts:

1) the general framework of rules and obligations;
2) individual schedules of commitments for each WTO Member, which specify, on a sector-by-sector basis, the conditions under which foreigners may supply services; and
3) annexes and ministerial decisions.

Figure 1: Components of the General Agreement on Trade in Services (GATS)


GATS
Framework of Rules
Contains general obligations conducive to international trade in services, including:
* Most-Favoured-Nation treatment
* Transparency
* Increased participation of developing countries
* Economic integration
* Domestic regulation
* Monopolies and exclusive service suppliers
* Business practices
* Emergency safeguard measures
* Payments and transfers
* Restrictions to safeguard the balance of payments
* Government procurement
* General exceptions
* Subsidies
National Schedules of Commitments
Submitted by each of the 133 WTO signatory countries. The schedules contain commitments regarding restrictions and limitations to market access and national treatment. Schedules typically comprise:
* Horizontal commitments
* Industry-specific commitments with respect to 4 modes of supply:
$ cross-border supply
$ consumption abroad
$ commercial presence
$ presence of natural persons
* MFN exemptions (optional)
Annexes and Ministerial Decisions
Provide information regarding on-going negotiations and rights to temporary MFN exemptions, including:
* Annex on MFN exemptions
* Annex on movement of natural persons supplying services under the Agreement
* Annex on air transport services
* Annex on financial services
* Second annex on financial services
* Annex on negotiations on maritime transport services
* Annex on telecommunications
* Annex on negotiations on basic telecommunications
* Decision on Institutional Arrangements for the GATS
* Decision on Certain Dispute Settlement Procedures for the GATS
* Decision on Trade in Services and the Environment
* Decision on Negotiations on Movement of Natural Persons
* Decision on Negotiations on Maritime Transport Services
* Decision on Financial Services
* Decision on Negotiations on Basic Telecommunications
* Decision on Professional Services
* Understanding on Commitments in Financial Services

The multilateral trading system, under which the GATS was negotiated, has existed for fifty years. Among the outcomes of the latest round of negotiations was the establishment of the World Trade Organisation (WTO). This organization is responsible for overseeing the implementation of the various multilateral trade agreements and their dispute settlement mechanisms. The next round of GATS negotiations (GATS 2000) will take place under the auspices of the WTO.

While the GATS is a government-to-government agreement, it is of direct relevance to firms because it lays down the framework of international rules within which firms operate around the globe. The GATS establishes a basic set of rules for world trade in services, a clear set of obligations for each Member country, and a legal structure for ensuring that those obligations are observed. This allows firms to identify which markets are open to foreign service providers and to be sure that these markets will remain open in the future. In the event of a disagreement, the Agreement contains a dispute settlement mechanism through which Member countries can attempt to obtain the treatment to which they are entitled.

The Agreement establishes a basic set of rules for world trade in services, a clear set of obligations for each Member country and a legal structure for ensuring that those obligations are observed.

The GATS covers virtually every aspect of services trade, including:

- the majority of services;
- almost all the major world markets;
- the different means by which a service can be supplied to a foreign market customer; and
- the establishment of commercial operations in foreign markets.

The GATS should be one of the key reference texts used by corporate planners seeking to exploit foreign opportunities, especially outside North America. The next round of the GATS negotiations in 2000 should be a key focus for action by business.

To whom does the GATS apply?

All Members of the WTO must abide by the GATS. With 133 Members, the GATS covers over 90% of global trade in services. Most of the other major economies have applied to join the GATS, including Russia, Ukraine, China, Taiwan, Vietnam, and Saudi Arabia. Once these countries are admitted, virtually 100% of trade in services will be taking place between countries who have agreed to abide by the GATS rules.

What are the important obligations of the GATS?

The most important obligations of the GATS include the following:

Most-Favoured-Nation (MFN) Treatment. A WTO Member cannot discriminate among foreign service providers by offering more favourable treatment to service providers of any one country. Members are

permitted to maintain existing measures which contravene the MFN obligation, but any exceptions must be clearly stated in the Member's MFN exemption list.

National Treatment. In the services sectors listed in a Member's schedule of commitments, the Member cannot take measures to discriminate between domestic and foreign service providers; in other words, foreign firms must be treated as favourably as domestic firms. Any measure which violates the national treatment obligation must be clearly inscribed in the Member's schedule of commitments.

Market Access. In the sectors listed in a Member's schedule of commitments, the Member cannot take measures which are defined in the GATS as restricting market access. Examples of measures which would restrict market access include: quotas, economic needs tests, requirements for certain types of legal entities, and maximum foreign shareholding limits. Any measure which violates the market access obligation must be clearly inscribed in the Member's schedule of commitments.

Domestic Regulation. Members' regulations must be administered in a reasonable, objective and impartial manner. Qualifications and licensing requirements and technical standards must be based on objective and transparent criteria, and not more burdensome than necessary to ensure the quality of the service.

Transparency. Members shall make public all measures which pertain to the GATS. The WTO must be notified of any relevant changes to government policies, regulations or administrative guidelines which significantly affect trade in services covered by the specific commitments under the Agreement. As well, Members must establish enquiry point and respond promptly to requests for information on their regulatory regimes.

In the event that a Member fails to carry out its obligations or specific commitments under the GATS, other Members have recourse to the WTO's dispute settlement mechanism.

How does the GATS relate to the day-to-day business of supplying a service?

The GATS covers all the major ways in which service suppliers serve their clients — the so-called modes of supply. This means that countries have to say whether or not they allow:

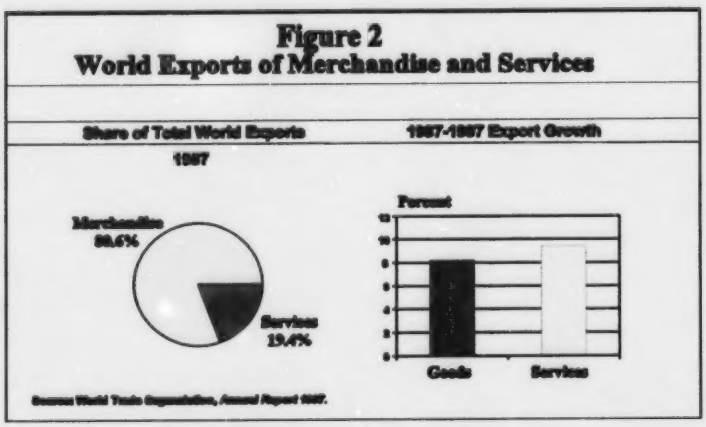
- foreign firms to deal with clients in their market from across the border (i.e. electronically);
- their citizens to travel abroad to visit the supplier in order to consume a service;
- foreign service suppliers to establish an operation in their market; or
- suppliers to enter the country in person to do business.

As a result, firms know where they stand in foreign markets and in their dealings with foreign clients. If they encounter barriers related to these modes of supply, they can verify whether the GATS Member concerned has made legal commitments in this area and ask for the assistance of their government

US$ 1.2 trillion worldwide.

However, commercial potential extends significantly beyond simple cross-border flows of services. It is estimated that trade in services through commercial presence could be at least as large as cross-border trade — that means that the balance of payments figures may only account for half the actual trade in services.* Several groups argue that services account for approximately 60% of the world's economic output, or more than US$14 trillion in economic activity which could be within the reach of international competition.

Figure 2
World Exports of Merchandise and Services



*** Cross-border trade in services** — where trade takes place from the territory of one Member into that of another. Only the service itself crosses the border, without the movement of persons, e.g. engineering plans sent by wire or satellite.

Commercial presence — any type of business or professional establishment, including branches and representative offices, e.g. direct investment in the host country. This data is currently unavailable.

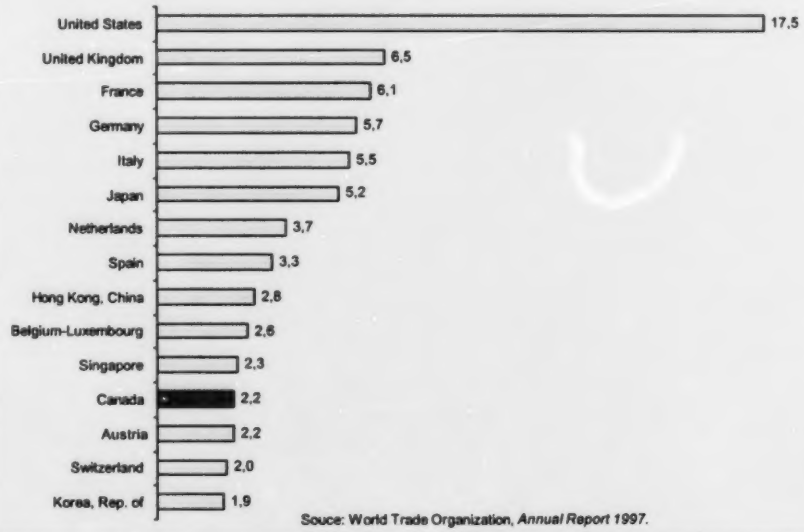
Canada's position

The service industries already play an important role in the Canadian economy and are growing faster than other components of Canadian Gross Domestic Product (GDP). Currently, these industries account for two thirds of Canada's GDP, almost three-quarters of employment, and nearly 90% of new job creation in Canada.

In 1997, the service industries generated 12.1% of total exports, and these exports accounted for 4.8% of Canada's GDP. At the same time, service imports represented 5.8% of Canada's GDP. Between 1987 and 1997, service exports grew on average by 9.1% per year, with commercial service exports

growing at a more rapid pace of 11.2% per year. In addition, Canada's trade deficit in services fell from a peak of $13.4 billion in 1993 to $8.8 billion in 1997. As a result, Canada ranked 12th in the world for its exports of services in 1997 — representing 2.2% of the world's total service exports.

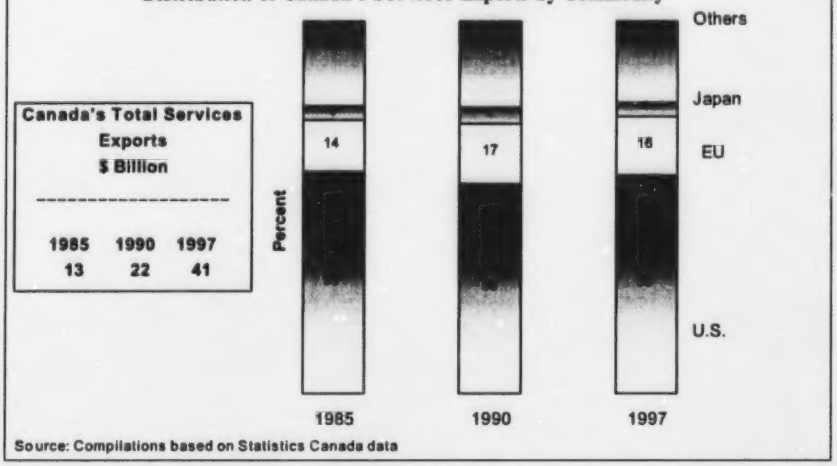
Figure 3: World Ranking
Percentage Share of Service Exports 1997



Souce: World Trade Organization, *Annual Report 1997.*

As with merchandise trade, the United States continues to be the main destination of Canada's service exports. However, the exports of services are more internationally diversified and the United States accounts for only 60% of total exports. One-fifth of Canada's service exports are bound for the European Union and Japan. The rest of service exports go mostly to other Asia Pacific and Latin America countries.

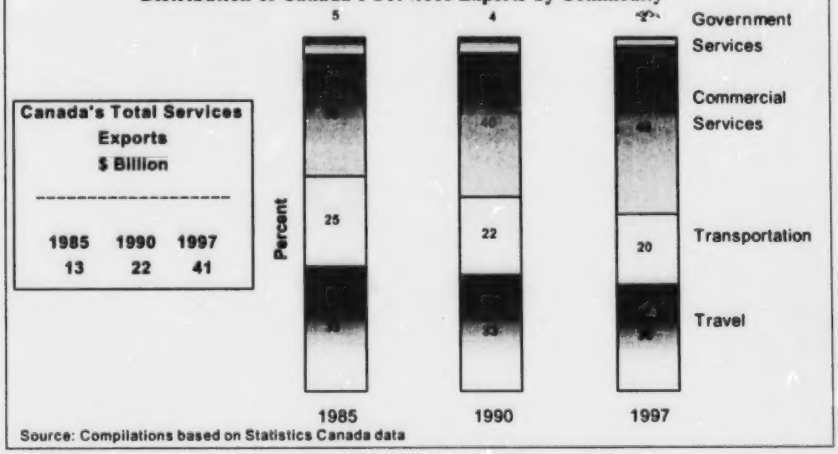
Figure 4:
Distribution of Canada's Services Exports by Commodity



Source: Compilations based on Statistics Canada data

Between 1985 and 1997, the share of commercial service exports in total service exports rose by 13 percentage points to 48%. Commercial services include: telecommunications; computer and information services; insurance and financial services; management consultant services; R&D services; and intellectual property services and royalties. During the same period, transportation and travel services grew at a slightly lower rate and now represent a smaller portion of Canada's service exports.

Figure 5:
Distribution of Canada's Services Exports by Commodity



Source: Compilations based on Statistics Canada data

While it is true that almost 50% of Canada's trade in services is made by the 100 largest firms in the service sectors, small and medium service firms are more likely to be engaged in exports than their goods producing counterparts.

... and this means?

In light of the increasing tradeability of services and the growing importance of the service industries to the economy, the prospects for more rapid growth in services trade are excellent. Canada clearly has the expertise and capabilities necessary to succeed in selling its services into rapidly growing international markets. In particular, Canadian architects should be able to capitalize on this growing trend of trade in services. The opportunities of the international market need to be explored.

IV. THE ARCHITECTURAL SERVICES INDUSTRY

What are architectural services?

Architects are accredited and skilled professionals who plan and develop designs for the construction and renovation of residential, commercial, institutional and industrial buildings. Architects may also provide a supervisory role for construction projects. Their services range from the design of furniture to buildings, and may include urban design and town planning. The focus of this paper is on architectural services as professional services, or services provided by qualified architects, and not on the economic activities of physical construction and related engineering works, although they are obviously closely inter-related. The reader is invited to refer to *The Canadian Construction Industry: A Consultation Paper* for an overview of construction activities. This document can be obtained through the International Investment and Services Directorate of Industry Canada or on the Internet at http://services2000.ic.gc.ca.

The primary services provided by architects include: consulting with clients to determine the type, style and purpose of the proposed structure; preparing schematic drawings and models; preparing construction documents including drawings and technical specifications, along with other information required to prepare a construction bid package; calling for contractor bids on behalf of the client; and administering the resulting construction contract. Other services that may be provided by architects are urban and environmental planning, landscape architecture, interior design, construction management and real estate development.

The international market

Since architectural services are strongly inter-related with physical construction activity and other business services, measurement of the global economic importance of this sector is difficult. In most official statistics, architectural services is absorbed in the broader categories of business services or construction activity. According to Industry Canada estimates, based on statistics for gross fixed capital formation among Organization of Economic Cooperation and Development (OECD) countries, architectural expenditures by OECD countries were approximately US$ 25 billion in 1990.

Architectural service suppliers seem to be characterized by the dominance of small businesses. Approximately 80% of the costs incurred by architectural firms are fixed overhead costs. Salaries of personnel, most of them highly qualified people, account for the bulk of costs. Since architects are so closely linked with the building and construction process, demand for architectural services is closely correlated with construction and overall industrial activity, both of which are in turn closely linked to the economic cycle.

Although architecture is an important component of the construction industry, trade in architectural services is relatively limited. There have been many hindrances to trade in these services including: licensing and other legal requirements; geographic differences in architectural demands arising from different climatic conditions; different building codes; and differences in culture, customs and work patterns. Large firms often serve foreign markets by establishing temporary or affiliate offices, which tend to operate with a high degree of autonomy. Hence, unimpeded access for professionals and the ability to establish a local presence are very important. International competition primarily occurs in the market for very large projects, where there is often a need for specialized expertise and an integrated package of architectural and engineering services.

With advanced communications systems, blueprints and designs can be transmitted electronically and consulting can be performed on-line. These technological advancements tend to raise the importance of cross-border supply of architectural services and increase international competition. Based on existing fragmented data, cross-border trade seems to have increased in North America but not in Europe. It will probably remain true, however, that the bulk of architectural services will still require professionals to temporarily enter foreign countries or establish a local presence.

The Canadian snapshot

The architectural services industry in Canada comprises approximately 3,500 firms and employs 11,500 workers plus approximately 7,000 registered architects. Statistics Canada estimates total industry revenues in 1996 at $904 million. Although Statistics Canada data exclude some sole proprietorships and other small or part-time practices, they capture the activities of the main producers of architectural services.

In 1998, according to the Royal Architectural Institute of Canada (RAIC), there were about 7,650 provincial licences issued in Canada. The actual number of registered architects is slightly less because some architects hold licences in more than one province. The 1990 Census recorded almost 12,000 individuals who identified themselves as architects. However, professionals working in corporations or the public sector (distinct from firms that provide architectural services) are not always licensed architects; in addition, a significant number of graduates of architectural schools are unregistered.

The architectural industry is almost wholly Canadian-owned. Most architectural firms are small although there are a few large players with between 10 and 100 architects. According to a recent survey by the Ontario Association of Architects, three quarters of the province's firms had fewer than 5 full-time employees (excluding principals), and only 6 percent had more than 10 employees. The modest size of most members of the industry can be seen in Figure 6. Almost half of all architectural firms generated less than $500,000 in revenues in 1994. Only 7 percent of the firms in the industry sold more than $2 million in architectural services in 1994. These "large firms," however, accounted for a substantial share of total

industry employment (37 percent) and revenues (32 percent). The big players in architectural services tend to be integrated engineering companies that offer a full range of construction related services.

Architecture is a cyclical industry whose fortunes are closely linked to the cyclical fluctuations in building construction. Among the more important demand influences are demographic factors, the growth rate of the economy, and the growth of government. These factors tend to vary across regions, which explains the interprovincial variations in the growth of the architectural sector.

Increasingly, Canadian architectural firms are exporting their services, which can be attributed to expanding global opportunities and a mature domestic market. According to Statistics Canada, the $16.8 million of architectural services that were exported in 1995 represented about 2 percent of total architectural revenues. It is widely held that through strategic alliances, architectural firms could better position themselves to pursue market opportunities outside Canada.

The international market currently represents an important source of business for only a small group of Canadian architectural firms. However, these companies have completed an extensive list of diversified projects in regions ranging from the Middle East and Africa to Europe, the United States and Asia. Many of these firms manage their foreign projects by establishing foreign subsidiaries in markets of interest. The difficulty with exporting architectural services is that, while designs and plans are portable, the provision of architectural services also requires familiarity with local conditions and cultures, on-site visits and consultations, as well as a good knowledge of local needs.

Canadian firms have undertaken projects in areas where they are recognized world experts. For example, Canadian architects are renowned internationally for their work on school buildings, airports, arctic design and construction technology, and office complexes. Canada also has recognized expertise in the design of wood frame buildings, resorts, ski centres and marina developments. The Export Council of Canadian Architects (ECCA) was formed to promote the export of this type of work. The Export Council's primary market focus is the Asia-Pacific region, and more specifically Japan and the developing markets of the Republic of Korea and Taiwan.

While falling trade barriers and the increasing ease of cross-border practice have improved the prospect for exports, these same changes have intensified competition in the domestic market. Foreign architects have recently secured major projects in the Canadian market. When a foreign firm is hired to do work in Canada, it generally establishes a working relationship with a domestic firm located in the region of the proposed facility. The latter prepares the technical construction drawings and specifications, provides site review services, and hires the engineering consultants needed to complete the construction project. This work can account for up to three quarters of total architectural fees and tends to be a comparatively profitable activity.

V. REGULATORY STRUCTURE AND RELEVANT TRADE LIBERALIZATIONS

Globally...

Architectural services belong to the group of "accredited" professional services. Most countries have licencing, certification or registration requirements for professionals, such as architects, to practice in their territory. In addition to qualification requirements, the licensing requirements may include establishment or residency requirements, absence of criminal record, the taking of an oath, subscription to a professional indemnity insurance, etc.

Architectural services appear to be subject to fewer restrictive regulations compared to some other accredited professional services, such as accountancy and legal services. According to the Organization for Economic Cooperation and Development (OECD), architectural services in OECD countries are not usually regulated by law or restricted to specific practitioners. Regulations seem to affect foreign suppliers to a much lower degree in architecture. Controls tend to take place more through norms and standards, such as building and safety codes, than through the regulation of practitioners. Several OECD countries including Denmark, Finland and Norway have no legal restrictions on the provision of architectural services. This is in sharp contrast to accountancy and legal services for which virtually all countries have regulations restricting access.

Mutual recognition agreements involving recognition of education and professional experience have gained importance in recent years as a means to secure market access. Regional and bilateral efforts to facilitate access for foreign architects have made significant progress in recent years. Under the Canada-United States Free Trade Agreement, a Canada-United States Inter-recognition Agreement was signed by the Committee of Canadian Architectural Councils (CCAC) and the U.S. National Council of Architectural Registration Boards (NCARB). Many U.S. states and Canadian provinces have agreed on a framework to grant reciprocal privileges to license and certify architects. However, in some jurisdictions an additional "Certificate of Practice" is required to deal with the public.

Representatives of Canadian, American, and Mexican architects have been negotiating an MRA on licensing and certification under the North American Free Trade Agreement (NAFTA). These negotiations have run into some difficulties, however, with the U.S. side showing less interest. The role of architects is very different in Mexico (and other Spanish or Portuguese settlements) from what it is in Canada or the United States. While architects in Canada assume the role of a third party intermediary between the building owner and the building contractor, architects in Mexico often serve as construction managers and sometimes as site superintendents. As a result of these cultural differences, few Canadian architects operate in Mexico.

Within the context of regional economic integration, the European Union and the European Economic Area introduced the principle of free movement of professionals and the mutual recognition of

diplomas. Under the "Architects Directive" (85/384/EC), each EU member state recognises the diplomas, certificates, and other evidence of formal qualification awarded to individuals in the field of architecture.

In the Asia-Pacific Economic Cooperation (APEC) area, work has started on the preparation of a directory of requirements for the provision of professional services, with priority on accountancy, engineering , and architectural services. This directory, once published, should be a valuable source of information for Canadian architects interested in working in APEC member countries.

At the International Union of Architects (with members from over 100 countries, but not from Canada), the second edition of the Accord on Recommended International Standards of Professionalism in Architectural Practice is currently being developed and is scheduled to be presented for adoption by its members in 1999. It comprises guidelines on: i) accreditation policy; ii) practical experience, training, and internship policy; iii) practical examination (demonstration of professional competence) policy; iv) registration, licensing, or certification policy; v) ethics and conduct policy; and vi) continuing education policy.

Regulations applied to professional services are mainly intended to protect consumers by ensuring the quality of service. Typical market access limitations in the architectural sector include restrictions on the form of commercial presence; often, joint operations or partnerships with local professionals are required. For natural persons, access to the country may be subject to economic needs tests, nationality requirements, residency/permanent residency requirements, or requirements to use local services or to employ local professionals. Access of foreign suppliers may also be limited to projects above or below a certain size.

And in Canada...

Professionals are legally responsible and liable for any negligent errors and omissions they make. Architects are no exception and, consequently, are licensed so that the public may be assured that persons calling themselves architects have the necessary qualifications to practice the profession of architecture.

Under the statutes of provincial legislatures known as the Architects Act, provincial associations of architects are given the responsibility of prescribing the qualifications of persons licensed to practice in the province, of providing the means of control and discipline over members, and of generally regulating the practice of architecture. These Acts also make it an offense for persons, other than those licensed, to use the title "Architect", and they provide for penalties to persons or corporations illegally engaged in the practice of architecture.

Membership in a provincial architectural association is mandatory for any business entity offering architectural services to the public and the services of an architect are required by law where buildings of a certain size are constructed to house public gatherings for commercial, institutional or cultural purposes.

Only persons registered with the association have the legal right to refer to themselves as architects. To qualify for licensing, an applicant must satisfy three requirements: formal education, work experience recorded through a period of internship, and successful completion of the registration examinations. A licence is a necessary but not a sufficient condition to practise in a given province. Each jurisdiction establishes its own requirements regarding matters such as accessibility to the public and proof of professional liability insurance. In Ontario, for example, licensed architects must obtain a "Certificate of Practise" which identifies them as duly authorized to provide services to the public.

The Committee of Canadian Architectural Councils (CCAC) is a forum where the provincial associations set national standards of admission to the profession and of delivery of architectural services. The CCAC acts as an interprovincial coordinating committee of the ten licensing bodies, and represents the profession nationally and internationally on regulatory matters. Recently, the CCAC has also been responsible for negotiating MRAs.

The Royal Architectural Institute of Canada is a voluntary body whose mission is "to advance the cause of architecture and its practice in Canada." The RAIC provides a national framework for the development and recognition of architectural excellence through programs of awards, symposia, exhibitions, research, publications and practice support. The RAIC has individual members only and businesses are not eligible. Internationally, the RAIC fosters professional and cultural exchanges with foreign associations and assists in establishing commercial linkages with firms in other countries.

Recognizing the importance of a national approach to educational standards, the Canadian Architectural Certification Board was created in 1976 to administer program accreditation of schools of architecture and certification of educational qualifications of individuals. In Canada, architects are educated at one of ten Canadian schools of architecture or through the RAIC Syllabus Program.

The Canadian experience with foreign regulations

Interviews were conducted with a small sample of Ontario firms that have undertaken projects outside of Canada to gain an understanding of the actual experiences of Canadian firms in other countries. The firms ranged from small offices with one architect, to medium and large firms. At the international level, however, these firms are significantly smaller than their American and European counterparts. The companies interviewed had a variety of experiences in different international markets but they tended to specialize in areas such as airports, large scale commercial developments and museums.

Some of the larger firms have established offices in other countries, but in most cases, firms find it easier to partner with local firms. Such associations are seen as a necessary part of business. In terms of the work on a contract, the local partner is often involved in liaison with the client, the development of construction documents to meet local standards, and contract management during construction. As a

result, most firms choose to partner with local companies and are not overly concerned about foreign regulatory partnership requirements.

Most firms currently operating abroad did not have problems with the recognition of credentials. Generally, firms commented that since their clients want to obtain their expertise there were no market barriers. However, these requirements may prevent some Canadian architects from undertaking international activities in the first place.

Respondents indicated that the political nature of many public projects can cause problems and uncertainty. Unfair or non-transparent government procurement or tendering practices have resulted in Canadian firms restricting their bidding on foreign government projects. Difficulties identified include problems in the United States where there is a lot of pressure for government to support American firms. Where Canadian architectural firms have done work in the United States, it has usually been on projects undertaken by Canadian developers.

Eastern Europe was seen as a difficult market because of the lack of laws and regulations. For example, laws governing private property rights did not exist and have only been developed in the last couple of years. Corruption was also reported to be a problem in Eastern Europe and China. Transparency of local regulations and of requirements for bidding are important. In this context, consistent application and enforcement of existing rules is also an issue.

VI. ANALYSIS OF GATS COMMITMENTS RELATED TO ARCHITECTURE

The following section analyses the commitments made by WTO Members during the Uruguay Round in the architectural sector. Annex B contains a summary of these commitments for Canada's key trading partners. For complete details about GATS commitments, please contact Industry Canada directly or visit our website at http://services2000.ic.gc.ca.

Generally, the commitments submitted in the GATS guarantee foreign service providers existing levels of access to local markets. These commitments are of real value because they provide greater certainty and reduce the risk that new restrictions may adversely affect international business transactions.

The horizontal commitments to consider...

As mentioned earlier, all Members committed to the basic precepts of trade liberalization in services, including the Most-Favoured-Nation (MFN) Treatment. In addition, several Members also agreed to some basic horizontal issues and restrictions that apply to all sectors. These consist of broad measures affecting investment, real estate transactions, government subsidies or taxation, and the

temporary movement of natural persons. To assess the full extent of trade liberalization, horizontal restrictions have to be examined in conjunction with sector-specific commitments.

...in light of the sector-specific commitments

The remaining commitments are identified in the sector-specific schedules of each Member country. In the service sectors listed in their schedules, unless otherwise identified, Members agree to the basic national treatment and market access obligations of the GATS.

As a result of the Uruguay Round and subsequent accessions, 61 WTO Member countries (the EU has a consolidated schedule for its 15 member states) have made commitments in architectural services. In addition, China submitted a schedule even though it is not yet a Member of the WTO and is not legally bound by the commitments. In total 62 countries made commitments under architectural services.

Countries with commitments in architectural services are identified in Table 2 of Annex B. Countries that did not make commitments in architectural services are not constrained by the GATS principles of national treatment and market access.

Analysis of the level of commitment can be done by categorizing commitments made as: full commitments (no limitation, implying total liberalization); partial commitments (some limitations); and no commitment (unbound). Table 1 contains a numerical examination of the nature of commitments made in architectural services. These figures compare favourably with other professional service subsectors and indicate that relatively liberal commitments were undertaken for architectural services compared to legal or accounting services.

Table 1:
Analysis of Commitments made by Members in Architectural Services

Market Access (number of countries with commitments)	Cross-border Supply			Consumption Abroad			Commercial Presence			Presence of Natural Persons		
	full	partial	none	full	partial	none	full	partial	none	full	partial	none
Architectural Services (61)	60%	18%	22%	76%	12%	12%	48%	48%	4%	6%	86%	8%
	52%	*26%*	*22%*	*67%*	*20%*	*12%*	*24%*	*72%*	*4%*	*0%*	*92%*	*8%*

Notes:
1. Full commitment is indicated by "none" in the market access column of the Schedule.
2. Partial commitment is when there are limitations listed in the market access column of the Schedule.
3. No commitment is indicated by "unbound" in the market access column of the Schedule.

All figures that are *in italics* indicate the percentage taking into account horizontal commitments applicable to all sectors.
Source: *Architectural and Engineering Services* - Background Note by the Secretariat, WTO Council on Trade in Services S/C/W/44.

The level of commitment vary by country and region. Strong commitments have been provided by countries including the United States, Mexico, Norway, Liechtenstein, Iceland, Austria, Finland, Ireland, Israel, Ecuador, New Zealand, and Australia. Regions such as South America, the Middle East, and Africa are still relatively restrictive since only a few countries submitted schedules and those submitted are not very substantial.

Limitations in general

Although 62 countries provided schedules for architectural services, there were limitations to the commitments. Annex B contains a map identifying the limitations to GATS commitments by region. Common limitations to market access include restrictions on the type of legal entity allowed for commercial presence, demonstrated economic need, recognition of professional qualifications, and local licensing or registration conditions. Residency, citizenship or nationality stipulations were also common. The less-developed-countries often require partnerships with local companies or professionals before allowing foreigners to work in their territory.

With regard to national treatment, the most prevalent limitations relate to licensing and qualification of workers. Nationality and residency stipulations are also abundant, with the latter being more so than the former.

Difficulties for foreign professionals would normally arise from non-recognition or limited acknowledgement of home country education, qualification or accreditation/licenses; nationality or residency requirements; and restrictions on incorporation. For firms, restrictions on foreign direct investment and ownership and requirement of a minimum number/percentage of locally registered staff have been identified as potential impediments to trade.

And in Canada specifically

Canada's schedule contains several of the limitations identified above. The majority of these are provincial legislative requirements. In the architectural services industry, national treatment for cross-border supply and the presence of natural persons is limited in Nova Scotia, New Brunswick and Newfoundland by the requirement for architects to be permanent residents for accreditation purposes. In Prince Edward Island, non-resident firms are required to maintain a higher percentage of practitioners in the partnership in order to receive national treatment. For market access, commercial presence must take the form of a sole proprietorship or a partnership. The Canadian schedule identifies existing barriers to architectural services related to the issuance of permanent licences. Canada made no commitment with regard to temporary licensing regimes.

While provincial regulatory authorities did not have to make changes to the manner in which they regulate architectural services, GATS disciplines require domestic regulatory measures to be transparent, objective and no more burdensome than necessary.

The Working Party on Professional Services (WPPS)

At the conclusion of the Uruguay Round it was felt that, due to the specificities of professional services, commitments related to market access and national treatment would not be sufficient to allow for effective liberalization. Professional services, such as those provided by architects, are particularly influenced by domestic regulations. Domestic regulations in the form of residency and nationality requirements, qualification standards and foreign ownership stipulations constitute effective barriers to free trade in services. As a result, the WPPS was established to contribute to the development of additional rules governing the liberalization of professional services regulations. The group was instructed to begin with the accountancy sector.

Having completed non-binding *Guidelines for Mutual Recognition Agreements or Arrangements in the Accountancy Sector* and *Disciplines on Domestic Regulation in the Accountancy Sector*, the WPPS will shift its attention to other professional services. The group is currently exploring the feasibility of pursuing this work at the horizontal level instead of on a sector-by-sector basis. At the next round of negotiations, however, there will be some pressure to eliminate the trade restrictive regulatory measures.

VII. PROPOSED CANADIAN OBJECTIVES FOR GATS 2000 NEGOTIATIONS

Canada's objective for the next round of GATS negotiations is to obtain improved access for Canadian service suppliers in GATS Member countries, while protecting sensitive domestic sectors. Based on initial analysis, the following have been identified as proposed objectives for the architectural services industry (the list is only partial and remains open to review):

- Securing better market access for the *commercial presence* mode of delivery by negotiating less restrictive investment measures and nationality requirements, and fewer stipulations regarding the type of corporate entities Canadian firms can establish abroad;

- Securing improved access for professionals and natural persons;

- Improving transparency requirements and ensuring consistency of domestic regulations to facilitate foreign entry;

- Achieving higher levels of liberalization in a variety of other professional service industries given that successful architectural firms will require mastery in organisational skills as well as advanced technology. Countries that are strong in consultancy, design services, technology and organisational know-how will have a comparative advantage in the architectural services industry; and

- Increasing the number of countries making full commitments in architectural services.

VIII. LET US KNOW WHAT YOU THINK

Those involved, or interested, in the exportation of Canadian architectural services can assist the government in refining these general objectives by providing information on their particular international activities and experiences. The following questions are offered as guidelines for formulating comments.

- What type of services do you currently export?

- What are the destinations of these service exports?

- Currently, how important are your international exports and activities:
  - very important;
  - moderately important; or
  - not important at all?

- In order, what are the most important methods by which you reach your foreign clients:

- establishing a legal entity in the foreign country (i.e. a subsidiary or branch);
- temporarily sending personnel to the client's foreign location;
- by mail;
- over the phone;
- by fax;
- transmitting your services electronically over the Internet; or
- having the foreign client visit you in Canada?

- In the future, which countries do you anticipate will be important export destinations for your services?

- What type of services do you anticipate exporting in the future?

- How important do you anticipate international trade will be in the future:
  - very important;
  - moderately important; or
  - not important at all?

- Do you anticipate that your method of delivering services internationally will change?

- In the future, what do you anticipate will be the most important methods by which you reach your foreign clients:
  - establishing a legal entity in the foreign country (i.e. a subsidiary or branch);
  - temporarily sending personnel to the client's foreign location;
  - delivering the services by mail, over the phone, or by fax;
  - transmitting your services electronically over the Internet; or
  - having the foreign client visit you in Canada?

- If you have limited or curtailed your international activities, was it as a result of:
  - barriers to foreign market access;
  - lack of government procurement opportunities;
  - lack of commercial competitiveness; or
  - other barriers?

- In each of your foreign markets (current or future), how much do local regulations affect your firm's ability to provide services:
  - a lot;
  - moderately; or
  - not at all?

- What specific measures have impeded your firm's business, or have affected your customers' ability to do business with your firm? (If possible, please cite the law or policy that impedes the conduct of business.)

- For each impediment to doing business, how important is it for your firm that the measure be removed:
  - very important;
  - moderately important; or
  - not important at all?

- Are there governmental measures, in Canada or in other countries, that are hindering Canadian architectural firms from participating in multi-disciplinary professional teams?

- Do you think that partnering with foreign firms is an effective way to deliver services? Can you establish or form associations easily?

- What would you consider the priority concerns with respect to the liberalization of trade in architectural services? (Rank the following from most to least important.)
  - "Buy-local" preferences
  - Investment limits or restrictions
  - Restrictions on the form of commercial establishments (i.e. partnership, joint venture, etc.)
  - Immigration/temporary entry restrictions
  - Limitations on the number of service providers in the market (quotas, exclusive rights, etc.)
  - Non-recognition of professional credentials
  - Lack of transparency in local regimes for practising/licensing
  - Restrictions on access to government procurement projects
  - Subsidies and tax incentives
  - Licensing requirements
  - Qualification requirements
  - Restriction on use of company names
  - Language requirements
  - Residency/citizenship requirements
  - Restrictions on fee-setting
  - Unfair bidding practices
  - Currency controls
  - Others _____

- Negotiation of a multilateral agreement on services trade may well involve an exchange of concessions in which each country would agree to further liberalization of its domestic market. Are

there any Canadian measures affecting your sector that are essential to your continued profitability and that should not be liberalized?

- Are there certain areas where internationally liberalized market access in Canada will have a significant impact on Canadian firms? What will be this impact and how large will it be?

- Do you feel that Canadian residency and partnership requirements are still necessary in architectural services?

- Do you consider that barriers to trade in architectural services warrant significant attention in the GATS negotiations? Why? Should Canada devote significant resources to this effort?

If you wish to make your views known to the government, please forward your comments to the following address:

GATS 2000
International Investment and Services Directorate
Industry Canada
235 Queen Street
Ottawa, Ontario
K1A 0H5

Attention: Carla VanBeselaere
Telephone: (613) 957-8108
Fax: (613) 952-0540
E-mail: vanbeselaere.carla@ic.gc.ca

IX. ACKNOWLEDGEMENTS AND REFERENCES

Much of the information in this document was sourced from the following three documents:

Architecture - Overview and Prospects: A Sector Competitiveness Framework prepared by the Service Industries and Capital Projects Branch of Industry Canada.

Canada in the Global Context: A statistical overview of the Canadian services economy prepared by the Service Industries and Capital Projects Branch of Industry Canada.

Architectural and Engineering Services: A background note prepared by the World Trade Organization Secretariat.

X. ADDITIONAL INFORMATION SOURCES

About the architectural services or service industries in general

Additional information on the architecture sector or service industries in general can be found on the Strategis website under Business Information by Sector, Service Industries and Capital Projects:

http://strategis.ic.gc.ca

or please contact:

Allan Doherty
Service Industries and Capital Projects Branch
Industry Canada
235 Queen Street
Ottawa, Ontario
K1A 0H5
Telephone: (613) 952-0216
Fax: (613) 952-9054
e-mail: doherty.allan@ic.gc.ca

About the GATS

The legal text of the GATS is part of the *Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations*, and can be purchased through any government bookstore. It is publicly available through the WTO website at:

http://www.wto.org/wto/legal/finalact.htm

The WTO website also provides additional background material on the structure of the GATS and on recent sectoral negotiations at:

http://www.wto.org/wto/services/services.htm .

The EU also provides a practical examination of the WTO GATS commitments on its website at:

http://gats-info.eu.int/

You can also contact:

The Services Trade Policy Division
Department of Foreign Affairs and International Trade
Lester B. Pearson Building
125 Sussex Drive
Ottawa, Ontario
K1A 0G2
Telephone: (613) 944-0487
Fax: (613) 944-0058

More information on the GATS 2000 agenda

Visit Industry Canada's Service Industry website on Trade in Services at:

http://services2000.ic.gc.ca

Other useful information link on the Internet

The United States International Trade Commission (USITC) is an independent, quasi-judicial federal agency that provides objective trade expertise to both the legislative and executive branches of government, determines the impact of imports on U.S. industries, and directs actions against certain unfair trade practices, such as patent, trademark, and copyright infringement. USITC analysts and economists investigate and publish reports on U.S. industries and the global trends that affect them.

Its website is http://www.usitc.gov/

ANNEX A

DEFINITIONS AND GLOSSARY OF GATS TERMINOLOGY

Agreement on Government Procurement (AGP) - A WTO plurilateral agreement to which not all Members are signatories. Its purpose is to open up as much of this business as possible to international competition. It is designed to make laws, regulations, procedures and practices regarding government procurement more transparent and to ensure they do not protect domestic products or suppliers, or discriminate against foreign products or suppliers.

Architectural Services Definition (CPC 8671) - Most countries use the World Trade Organization's Services Sectoral Classification to define what is meant by Architectural Services when making commitments in these sectors. This sector corresponds to the United Nations Central Product Classification (UN CPC) definition at the four-digit level. This definition includes:

- All types of architectural services except those classified under urban planning and landscape architectural services, which are: (i) advisory and pre-design architectural services (86711), (ii) architectural design services (86712), (iii) contract administration services (86713), (iv) combined architectural design and contract administration services (86714), and (v) other architectural services (86719).

Balance of Payments - The difference between the income and expenditure of a country on its external account, resulting from exports and imports of goods, services, and governmental transactions.

Bound Commitment - Commitment that cannot be made more restrictive in the future; only further liberalization is permitted (unless the agreed penalty is paid).

Commitment - A measure, usually regarding market access and national treatment, that affects international trade in services. Commitments are listed in national schedules and identify service sectors and modes of supply that are affected.

Emergency Safeguards - Measures suspending commitments in certain emergency situations.

Exclusive Rights - When the ability to provide certain services is restricted to a specific firm or firms.

Horizontal Commitment - Commitment that applies to international trade in multiple service sectors. Typically, horizontal commitments constitute limitations on market access or national treatment.

Juridical Person - Any legal entity duly constituted or otherwise organized under applicable law, whether for profit or otherwise and whether privately- or governmentally-owned; includes corporations, trusts,

partnerships, joint ventures, sole proprietorship, and associations (branches and representative offices are not included).

Measure - A law, regulation, rule, procedure, decision, or administrative action that affects trade in services. Measures may pertain to: (1) the purchase, payment, or use of a service; (2) a service supplier's access to, and use of, services which are required to be available to the general public; and (3) a service supplier's ability to establish a presence, including a commercial presence, in a host country.

Member Countries - Countries who are signatories to the World Trade Organization and thus, the GATS.

Modes of Service Delivery:

- *Cross-border trade in services (Mode 1)* - Trade takes place from the territory of one Member into that of another without the movement of the service provider, e.g. architectural plans sent by wire or satellite.
- *Consumption Abroad (Mode 2)* - Service consumed or purchased by nationals of a Member in the territory of another Member where the service is supplied, e.g. tourism, where the consumer travels to another country to consume the service.
- *Commercial Presence (Mode 3)* - Any type of business or professional establishment, including branches and representative offices, e.g. direct investment in the host country.
- *Temporary Movement of a Natural Person (Mode 4)* - Temporary presence of a natural person in a market for the purpose of supplying a service, e.g. professional or employee of a service provider.

Most-favoured Nation Treatment - A service or service supplier from a WTO Member country must be treated as favourably as a service or service supplier from any other country.

National Treatment - Foreign services and service providers must be treated no less favourably than their domestic counterparts.

Natural Person - An individual who is a national of a country under the law of that country, or in the case of a country which does not have nationals (e.g. territories), an individual who has the right of permanent residence under the law of that country.

Organizational Form - The structure of a company i.e. incorporated, partnership, etc.

Technically Infeasible - Not possible because technology does not permit it.

Unbound - Describes a situation where a WTO Member wishes to remain able to introduce or maintain measures inconsistent with market access and national treatment obligations.

ANNEX B

SUMMARY OF GATS COMMITMENTS RELATED TO ARCHITECTURE

This annex summarizes the commitments and restrictions (related to architectural services) made by WTO Members. The first section examines the horizontal restrictions that apply to all sectors (including architecture) while the second section includes details about the architectural services sector-specific commitments. Taken together these commitments represent the starting point for GATS 2000 negotiations. For reasons of presentation, the examination of sector-specific commitments are grouped by regions and limited to Canada's major trading partners. Complete information on all WTO Member commitments is available on request or from the government of Canada website at http://services2000.ic.gc.ca. A glossary of the terminology used in this section can be found in Annex A.

HORIZONTAL RESTRICTIONS

These restrictions generally summarize broad measures affecting commercial presence and investment, real estate transactions restrictions, government subsidies or taxation, and temporary movement of natural persons. In addition to these restrictions, developing countries have also established preferences for companies that offer the best terms for technology transfer. The horizontal commitments supersede any sector-specific commitments. To assess the full extent of trade liberalization, horizontal commitments have to be examined in conjunction with sector-specific commitments.

1. Commercial Presence and Investment Restrictions

The acquisition and control of a domestic business by a foreigner may be subject to investment ceilings, restrictions as to the type of assets that may be held, local incorporation and presence requirements, and government approval. For example, Canada requires approval of all direct acquisitions of a Canadian business with assets equal to or higher than a monetary amount established annually and published in February of each year in the *Canada Gazette*; in 1998, the threshold was C$179 million for WTO Members.

2. Real Estate Transactions Restrictions

Many countries restrict the purchase of real estate and the acquisition of land. Nationality restrictions and deposit requirements are relatively common. Often, these regulations are established by sub-federal levels of government and, as a result, tend to be extremely complicated. Rather than imposing restrictions on domestic real estate regulations, the GATS rules require transparency and access to information about these rules.

3. Government Subsidies or Taxation

To clarify issues related to domestic taxation and access to subsidies, Members provided specific comments in their schedule on this issue. Foreigners may not be eligible for certain subsidies or may, under special circumstances, have to pay a different tax rate. For example, the United States reserves the right to impose higher taxes on a national, resident or corporation of a foreign country where a national, resident or corporation of the United States is being subject to discriminatory or extraterritorial taxes. All countries maintain sovereignty over domestic issues of taxation and subsidization.

4. Movement of Natural Persons

Generally, the GATS does not prevent a Member from applying measures to regulate the entry of natural persons into, or their temporary stay in, its territory. The movement of natural persons is unbound under most GATS schedules. However, Members generally committed to allowing temporary entry of intra-corporate transferees (managers, executives and specialists), personnel engaged in the establishment of a business, and service salespersons. Permanent entry is not dealt with in the GATS and remains under the responsibility of local immigration authorities.

ARCHITECTURAL SERVICES SECTOR-SPECIFIC COMMITMENTS

This section outlines sector-specific commitments and limitations to market access and national treatment established in the individual country schedules. In total, 62 countries provided schedules for architectural services but the level of commitment varies significantly between region and country. For reasons of presentation, the examination of sector-specific commitments is grouped by regions and limited to Canada's major trading partners.

North America
(The terms of access provided by both the United States and Mexico in the GATS are not as liberal as those provided in the North American Free Trade Agreement.)

United States

- For market access, the presence of natural persons remains unbound except as indicated in the horizontal section.
- The only other limitation in the U.S. schedule for architectural services is that two-thirds of the officers, partners, and directors of an architectural firm in Michigan must be licenced in Michigan as architects, professional engineers, and/or land surveyors.

Mexico

- For market access and national treatment, the presence of natural persons remains unbound except as indicated in the horizontal section.
- Foreign investment up to 100% of the registered capital of enterprises is allowed.

South America

(The terms of access provided by Chile in the GATS are not as liberal as those provided in the Canada-Chile Free Trade Agreement.)

- Members with GATS commitments in architectural services: *Argentina, Brazil, Chile, Ecuador, Guyana, Peru, and Venezuela.*
- Ecuador and Guyana have relatively few restrictions to access of architectural services; only the presence of natural persons remains unbound except as indicated in the horizontal section.
- Argentina requires that professional service suppliers obtain recognition of their professional degree, enrol in the relevant college and establish a local presence in Argentina (legal domicile is not a residency requirement).
- Venezuela is unbound with respect to cross-border supply, commercial presence, and the presence of natural persons (except as indicated in the horizontal section).
- Chile, Brazil and Peru remain unbound with respect to cross-border supply, consumption abroad, and the presence of natural persons (except as indicated in the horizontal section).
- Foreign service suppliers must join a Brazilian service supplier in a specific type of legal entity (consórcio) and the Brazilian partner shall maintain the majority control. The contract establishing the consórcio must clearly define its objective.

Central America and the Caribbean

- Members with GATS commitments in architectural services: *Antigua and Barbuda, El Salvador, Jamaica, Panama, and the Dominican Republic.*
- Antigua and Barbuda, the Dominican Republic, Jamaica, and El Salvador remain unbound with respect to the presence of natural persons but this is contingent on commitments made in the horizontal section.
- The Dominican Republic also remains unbound with respect to consumption abroad and commercial presence (for national treatment only). In addition, for market access of natural persons, a permit and compliance with the regulations of the College of Engineers, Architects and Surveyors of the Dominican Republic (CODIA) is required.
- In Antigua and Barbuda, the Architect Act limits commercial presence.
- Jamaica prefers joint ventures and requires board examinations, registration and licensing for commercial presence.
- In Panama, the persons responsible for architectural and engineering works must be professionals licensed in Panama. For market access, foreign engineering or architectural professionals may be hired provided that the Engineering and Architecture Technical Council show that there are no

Panamanian professionals suitable for providing such services. If a foreign professional is hired for more than 12 months, the hiring entity must employ a Panamanian professional who will acquire the training necessary to be in a position to replace the foreigner at the end of his or her contract. Authorizations to hire foreign specialists for less than 12 months may not be extended.

European Union

- Members with GATS commitments in architectural services: *Austria, Belgium, Denmark, Finland, France, Germany, Greece, Netherlands, Ireland, Italy, Luxembourg, Portugal, Spain, Sweden, and United Kingdom.*
- Belgium, Greece, Italy and Portugal remain unbound with respect to the cross-border supply of architectural services.
- Spain, Italy and Portugal restrict market access for commercial presence to natural persons. In Italy and Portugal, professional associations are permitted market access but no incorporation among natural persons is allowed.
- For market access, commercial presence in France is only allowed through provisions of a SEL (anonyme, à responsabilité limitée ou en commandite par actions) or a SCP.
- Denmark, Spain, Luxemburg, the Netherlands, the United Kingdom, and Sweden are unbound with respect to market access for natural persons (except as indicated in the horizontal section) subject to other specific limitations. In Denmark, the Netherlands, the United Kingdom, and Sweden, a university degree, professional qualifications, and three years' professional experience in the sector are required. In Spain, academic and professional qualifications must be recognized by the national authorities and a licence must be delivered by the relevant professional association.
- Spain remains unbound with respect to market access for natural persons in the following architectural subsectors: contract administration services, combined architectural design and contract administration services, and other architectural services.
- Germany applies the national rules on fees and charges to all architectural services performed from abroad.

Other European Countries (including Eastern Europe)

- Members with GATS commitments in architectural services: *Bulgaria, Czech Republic, Hungary, Iceland, Liechtenstein, Norway, Romania, Slovak Republic, Slovenia, and Switzerland.*
- All Members remain unbound with respect to the presence of natural persons except as indicated in the horizontal section.
- Iceland has no limitations on the national treatment of natural persons.
- Slovenia remains unbound with respect to market access for the cross-border supply of services.
- In the Swiss canton of Lucern, three years of prior professional practice in Switzerland is required for national treatment of services supplied across borders, through commercial presence, and by the presence of natural persons.

- For commercial presence, authorization by the Slovak or the Czech Chamber of Architects is required. Authorization by a similar foreign institution may be recognized. Architectural services may only be provided by authorized architects. Conditions of citizenship and residency are also imposed but exceptions may be considered.
- There is a permanent residency requirement for market access of natural persons in Hungary.
- In Bulgaria, access is limited to natural persons subject to recognition of their technical qualifications and accreditation by a professional chamber in the Republic of Bulgaria. Accreditation is subject to the following criteria: recognized technical qualifications in Bulgaria; experience in the field of construction; projects performed during the last two years, staff and technical capacity. In addition, for projects of national or regional significance, foreign persons are to provide their services only in partnership with, or as subcontractors of, local service suppliers.

Middle East

- Members with GATS commitments in architectural services: *Israel, Kuwait, Turkey, Qatar, and the United Arab Emirates.*
- Most of these Members remain unbound with respect to the presence of natural persons except as indicated in their horizontal commitments.
- Kuwait also remains unbound with respect to cross-border supply and consumption abroad.
- In Qatar, market access is only allowed for projects over $100 million or an equivalent amount in other currencies.
- Turkey imposes no limitations on the supply of architectural services except that foreigners are required to become temporary members of the related Union of Chambers for market access.

Asia-Pacific

- Members with GATS commitments in architectural services: *Indonesia, Japan, Korea, Malaysia, Singapore, and Thailand.*
- All these countries remain unbound with respect to the presence of natural persons. Japan, Korea, Malaysia, and Singapore have horizontal commitments on the presence of natural persons which restrict them.
- In Japan, cross-border supply and consumption abroad are limited by commercial presence requirements for services supplied by a qualified "Kenchikushi" or by a supplier using a "Kenchikushi." This includes the following architecture subsectors: architectural design services, contract administration services, combined architectural design and contract administration services (limited to services necessary for construction of building and excluding post construction services).
- Commercial presence is required for market access in Korea for cross-border services.
- In Malaysia, architectural services may be supplied only by a natural person. For national treatment of cross-border supply and consumption abroad, architectural services must also be authenticated by a registered architect in Malaysia. The presence of natural persons is limited by the horizontal commitments and is only permitted for an architect who is a consultant to a project

wholly financed by a foreign government or implemented under a bilateral arrangement between governments (subject to temporary registration for a period of one year).

- In Thailand, national treatment of foreign commercial presence is only provided if foreign equity participation does not exceed 49%.
- In Singapore, market access through commercial presence is limited by various requirements depending on the type of commercial presence. Any architectural work must be under the control and management of a registered architect or allied professional. Corporations are only allowed to have registered architects or allied professionals as directors. For a limited corporation, not less two-thirds of each class of shares of the corporation shall be beneficially owned by and registered in the names of registered architects or allied professionals, unless otherwise specified by the Minister for National Development. For unlimited corporations, all registered members of the corporation must be registered architects, allied professionals or their nominees.
- In Indonesia, commercial presence is only allowed for joint operations or joint ventures. For national treatment of joint ventures or operations, registration and licensing are required and the local partner(s) must be member(s) of the Indonesian Consultant Association and have the appropriate qualifications.

China *(An observer government that has applied to join the WTO, but has not yet become a Member. China is not legally bound by any commitments.)*

- China remains unbound with respect to the cross-border supply of architectural services.
- Equity or contractual joint ventures are required for market access.
- National treatment of commercial presence requires that architects be registered in their own country.
- China remains unbound with respect to the presence of natural persons except as indicated in the horizontal commitments.

Africa

- Members with GATS commitments in architectural services: *Botswana, Gambia, Lesotho, Senegal, Sierra Leone, and South Africa.*
- All these countries remain unbound with respect to the presence of natural persons. With the exception of Senegal, the commitments relating to the presence of natural persons in the horizontal section are binding for professional services.
- In Sierra Leone, for market access, commercial presence must take the form of a partnership and the foreign ventures must be competitive and registered institutions in their own country.
- In South Africa and Lesotho, market access for cross-border supply and consumption abroad of architectural services relating to building plans of over 500 m^2 is restricted to locally registered architects.
- Botswana restricts market access to foreign companies that are registered institutions allowed to practise in their country of origin. For national treatment, the qualifications of foreign

professionals employed by the company should be recognized by the appropriate legislation council and, in its absence, the Architects Association of Botswana.

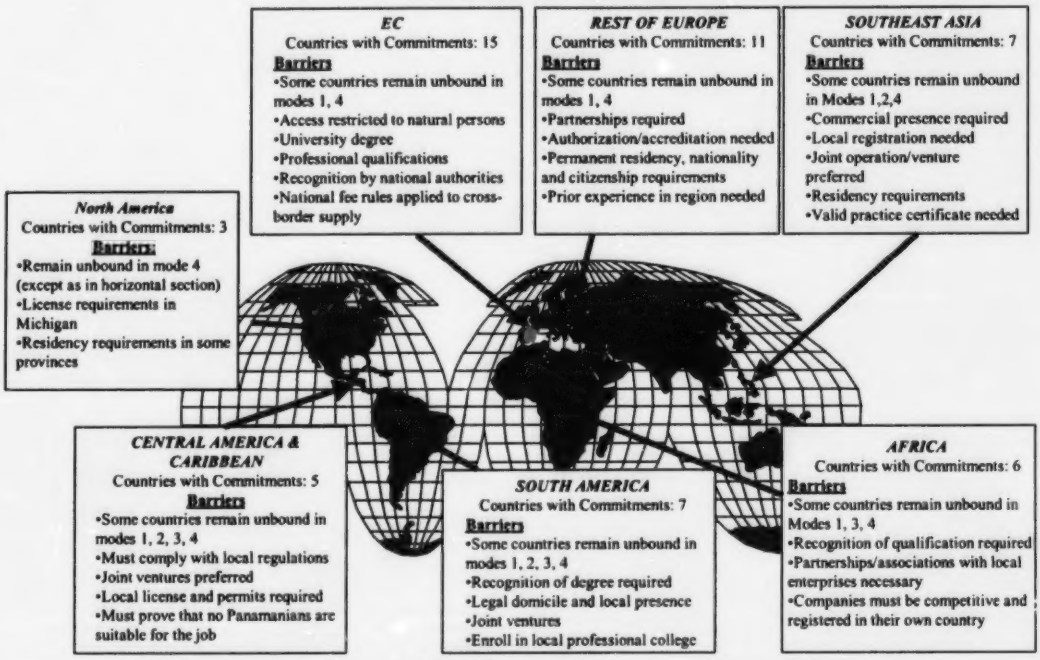
Australasia

- Members with GATS commitments in architectural services: *Australia, New Zealand, Papua New Guinea, and the Solomon Islands.*
- The only limitation in these schedules is that the presence of natural persons is unbound except as indicated in the horizontal section.

Table 2: Countries with GATS Commitments in Architecture

Country		
Antigua and Barbuda	Hungary	Peru
Argentina	Iceland	Qatar
Australia	Indonesia	Romania
Botswana	Israel	Senegal
Brazil	Jamaica	Sierra Leone
Bulgaria	Japan	Singapore
Canada	Korea RP	Slovak Republic
Chile	Kuwait	Slovenia
China	Lesotho	Solomon Islands
Cuba	Liechtenstein	South Africa
Czech Republic	Malaysia	Switzerland
Dominican Republic	Mexico	Thailand
Ecuador	New Zealand	Turkey
El Salvador	Norway	United Arab Emirates
European Union	Panama	United States
Gambia	Papua New Guinea	Venezuela
Guyana		

Figure 6:
THE ARCHITECTURAL SERVICES
Limitations to GATS Commitments


EC
Countries with Commitments: 15
Barriers
•Some countries remain unbound in modes 1, 4
•Access restricted to natural persons
•University degree
•Professional qualifications
•Recognition by national authorities
•National fee rules applied to cross-border supply
REST OF EUROPE
Countries with Commitments: 11
Barriers
•Some countries remain unbound in modes 1, 4
•Partnerships required
•Authorization/accreditation needed
•Permanent residency, nationality and citizenship requirements
•Prior experience in region needed
SOUTHEAST ASIA
Countries with Commitments: 7
Barriers
•Some countries remain unbound in Modes 1,2,4
•Commercial presence required
•Local registration needed
•Joint operation/venture preferred
•Residency requirements
•Valid practice certificate needed
North America
Countries with Commitments: 3
Barriers:
•Remain unbound in mode 4 (except as in horizontal section)
•License requirements in Michigan
•Residency requirements in some provinces
CENTRAL AMERICA & CARIBBEAN
Countries with Commitments: 5
Barriers
•Some countries remain unbound in modes 1, 2, 3, 4
•Must comply with local regulations
•Joint ventures preferred
•Local license and permits required
•Must prove that no Panamanians are suitable for the job
SOUTH AMERICA
Countries with Commitments: 7
Barriers
•Some countries remain unbound in modes 1, 2, 3, 4
•Recognition of degree required
•Legal domicile and local presence
•Joint ventures
•Enroll in local professional college
AFRICA
Countries with Commitments: 6
Barriers
•Some countries remain unbound in Modes 1, 3, 4
•Recognition of qualification required
•Partnerships/associations with local enterprises necessary
•Companies must be competitive and registered in their own country

Modes: (1) Cross-border, (2) Consumption abroad, (3) Commercial presence, (4) Presence of natural persons.